




U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530
February 7, 2000

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Robert Raben 
Assistant Attorney General

SUBJECT: Weekly Report for February 7, 2000 - February 11, 2000

KEY ISSUES

- Elian Gonzalez: OLA continues to send information packets to the Hill on Elian Gonzalez. Chairman Burton's subpoena of Elian expires on February 10. We have not yet heard whether Burton will try to extend the date of the subpoena. (First)
- Immigration Hearings: Three immigration hearings are scheduled for Thursday, February 10.

First, Chairman Smith is holding a hearing on the use of classified evidence, and the Bonior/Campbell bill to eliminate the use of classified evidence. FBI General Counsel Larry Parkinson will testify for the Department and INS General Counsel Bo Cooper will be available for questions. We expect the hearing to be contentious, but short.

Secondly, Chairman Smith is also holding an oversight hearing on the Visa Waiver Pilot Program, which will soon be up for renewal. Chairman Smith has indicated that he will not support a permanent reauthorization of the program. Acting Inspector General Ashbaugh will testify. Associate Deputy Attorney General Elisa Liang is testifying for the Department, accompanied by Mac McAtamney, Counsel for the Deputy on National Security Affairs. Mike Cronin is testifying for INS.

Lastly, Chairman Abraham will hold a hearing on the northern border. This hearing was rescheduled from two weeks ago. Michael Pearson, head of INS Field Operations, will testify for the Department. We expect Senator Abraham to focus on the need for increased resources at the northern border. (First)

- Small Business Liability. The House Judiciary Committee completed the markup of H.R. 2366, the Small Business Liability Reform Act on February 1st. This bill would preempt State tort law as it applies to nearly every civil action involving a small business defendant, defined as any business (regardless of net worth) with fewer than 25 employees. It would raise the standard for awarding punitive damages, cap punitive damages at a maximum of \$250,000, and preclude joint and several liability for non-economic damages. The Department sent a letter opposing the bill and we are now in the process of seeking approval for your veto threat of this legislation in anticipation of quick floor action. (Wilson)
- Takings: On February 2, the House Judiciary's Subcommittee on the Constitution (Canady, Chair), approved H.R. 2372, the "Private Property Rights Implementation Act" by voice vote. The Office of Legislative Affairs sent a letter to Chairman Canady this past September stating that you would recommend the President veto H.R. 2372 if it is passed in its present form. (Pearlman)
- First Federal Execution. On February 3, staff from the Office of Legislative Affairs accompanied U.S. Marshal for the Southern District of Indiana Frank Anderson and other USMS staff as Marshal Anderson briefed staff for Congressmen McCollum and Pease on the USMS plan for perimeter security at the BOP facility in Terre Haute at the time of the first federal execution which will take place some time later this year. (Scott-Finan)

THE WEEK AHEAD

Asbestos Compensation Legislation. The House Judiciary Committee is expected to mark up Asbestos Compensation legislation on February 15. The Department of Justice sent a letter last session during a hearing on the legislation. Our letter did not indicate a position, but did highlight some concerns we had with the legislation, as then drafted. Staff from the Offices of the Associate Attorney General, Legislative Affairs, Policy Development and the Civil Division will be setting up meetings with House and Senate staffers soon. (Wilson)

Drug Treatment in Prisons. On February 8, OLA staff and BOP staff will brief staff for Senator Hatch on BOP's drug treatment program. (Scott-Finan)

ADA and the Internet. On February 9th, the Constitution Subcommittee (Canady, Chair) of the House Judiciary Committee will hold a hearing on how people with disabilities have access to the Internet. On January 24th, staff from OLA and the Civil Rights Division met with staff for Ranking Minority Member Watt in preparation for the hearing. The Department has not been invited to testify at the hearing. (Ho, Scott-Finan)

Traffic Stops Statistics Act. The House Judiciary Committee has tentatively scheduled a markup of H.R. 1443, the Traffic Stops Statistics Act, for February 9th. In June of 1999, the Department sent a letter supporting the study as outlined in the legislation and suggested that three revisions be made to H.R. 1443: changing the time frame for the initial analysis to 180 days, deleting the

requirement that we identify the agencies from which the data would be collected in the initial analysis, and adding language stating that the data collected be used solely for research and statistical purposes. (Scott-Finan)

Money Laundering Hearing. On February 10, the Crime Subcommittee of the House Judiciary Committee will conduct a hearing on money laundering. Assistant Attorney General James Robinson, accompanied by Steffan Cassella, Deputy Chief of the Asset Forfeiture and Money Laundering Section, will testify on behalf of the Department. (Graupensperger)

Victims' Rights Amendment. The House Judiciary's Subcommittee on the Constitution (Canady, Chair), has scheduled a hearing on H.J. Res. 64, the House version of a Victims' Rights Amendment to the Constitution for February 10th. The Department plans to submit a statement for the record. Staff from the Office of Legislative Affairs and various components will meet with the staffs of Chairman Canady and Ranking Minority Member Watt, in preparation for the hearing. We have conferred with U.S. Attorney Pflaumer, at her request, on briefing staff on this issue. (Pearlman)

Police Integrity. The Department's Working Group continues to meet in planning sessions for the follow-up meeting to the June conference on "racial profiling/data collection" to be held on February 17th. (Scott-Finan)

Nominations. Randy Moss, who has been nominated to be Assistant Attorney General for the Office of Legal Counsel, has courtesy visits this week with Senators Thurmond, Grassley and Sessions. (Scott-Finan)

THE WEEK IN REVIEW

Bankruptcy. On February 2nd, the Senate passed the Bankruptcy legislation, S. 625, by a vote of 83 to 14. Timing on Conference is unknown at this time. (Wilson)

Statute of Repose Legislation. On February 2nd, the House approved H.R. 2005, the Workplace Goods Job Growth and Competitiveness Act of 1999. This bill would adopt a national 18-year statute of repose for "durable goods," which includes any product used by business, trade, or government that is expected to last more than three years. H.R. 2005 would, in most cases, bar the courtroom doors to any person or business seeking to recover for personal injury or property damage caused by a defective durable good, if that product is more than 18 years old. We strongly oppose this bill. We do not believe that a federally enacted bar to all lawsuits is the solution. The bill would cut off legitimate suits as well as frivolous ones, and would preempt state tort law, an area of policy-making traditionally left to the States. (Wilson)

Social Security Identity Theft. On February 3rd, staff from the Office of the Deputy Attorney General and Office of Legislative Affairs participated in a conference call with Senator Harkin's staff on issues related to the use of Social Security numbers for identity theft and other violations of privacy. (Burton)

H.R. 809, Federal Protective Services Reform Act. On February 3rd, staff from the Office of Legislative Affairs, Criminal Division and the FBI met with Representative Traficant's Chief of Staff to discuss the Department's concerns with this legislation. (Daley)

The Commission on the Advancement of Federal Law Enforcement. On February 1st, the Commission on the Advancement of Federal Law Enforcement (set up pursuant to the Anti-terrorism Act of 1996) released its report at an event on Capitol Hill. (Graupensperger)

The Senate Judiciary Committee's Subcommittee on Criminal Justice Oversight conducted a hearing on February 3rd, to hear from the members of the Commission about the report. (Graupensperger)

Cyberspace Electronic Security Act, CESA. On February 3rd, staff from the Office of Legislative Affairs attended a briefing conducted by the FBI for Senator Feinstein's Judiciary Committee staff regarding encryption legislation. (Daley)

Unlawful Conduct on the Internet. On January 28th, staff from the Office of Legislative Affairs and the Criminal Division met with House Commerce Committee staff to discuss technical questions related to unlawful conduct on the Internet. (Owen)

H.R. 3125, Internet Gambling Prohibition Act. On January 28th, staff from the Office of Legislative Affairs and Criminal Division met with Representative Conyers' House Judiciary staff at the request of the White House to discuss the full Committee markup of this legislation. In addition, at the request of the House Subcommittee on Crime, the staff from OLA and Criminal Division met on February 1st also to discuss markup of this bill. (Daley)